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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|--------------------------------|------------------------|
| 10/066,515 | 01/31/2002 | Majid Zia | 1-14873 | 3658 |
| 1678 7590 06/12/2007 MARSHALL & MELHORN FOUR SEAGATE, EIGHT FLOOR TOLEDO, OH 43604 | | | EXAMINER BRINSON, PATRICK F | |
| | | | ART UNIT 3754 | PAPER NUMBER |
| | | | MAIL DATE 06/12/2007 | DELIVERY MODE PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|---------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/066,515 | Applicant(s) ZIA ET AL. | |
| | Examiner Patrick F. Brinson | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15,20-37,49,50,52 and 56-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20-25 and 36 is/are allowed.
- 6) ☒ Claim(s) 15,26,31-35,37,49,50,52 and 56-58 is/are rejected.
- 7) ☒ Claim(s) 27-30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 35 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4,029,103 to **McConnell**.

The patent to McConnell discloses a tube support for medical tubings including a planar surface (14) having a tube contacting curvilinear channel (13) of substantially circular cross-section disposed therein for receiving tubing (18) wherein the intravenous tubing is held stationary in the channel and wherein the device is configured to prevent flow constricting areas from forming in the flexible tubing, as recited in claims 35 and 37.

2. Claims 49, 50 and 56-58 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 3,942,528 to **Loeser**.

The patent to **Loeser** discloses a kink-resistant tubing apparatus comprising a rectangular block support member, fig. 7, the block including at least two channels (140) in the block for retaining a piece of tubing (142), wherein the block supports the

weight of the tubing and the piece of flexible tubing passes through both or all of the channels, as recited in claims 49 and 50. It is disclosed that the device is formed of a plastics material, which materials are known to form devices that are rigid or semi-rigid.

3. Claims 49, 50, 52 and 56-58 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,890,684 to **Stewart et al.**

The patent to **Stewart et al.** discloses a tubing apparatus comprising a support member, wherein the support member is a solid rectangular block (12), at least two parallel channels (28, 32) through the solid rectangular block for retaining tubing and structure, including third opening (38) and bolt (40) to support the weight of the tubing apparatus without substantially deforming the tubing retained by the support member, as recited in claims 49, 50 and 52. It is disclosed that each channel is operable to receive respective end portion of respective cables, though only one such end portion is being shown at (36). It is further disclosed that a further end portion may be inserted through the opening (34). It is disclosed that the block is formed of a suitably flexible plastic material such as aluminum, so it could be rigid or semi-rigid.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 26 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,916,199 to **Miles** in view of Applicant's disclosure and U.S. 3,942,528 to **Loeser**.

The patent to **Miles** discloses a tubing support member having at least one substantially planar surface, a channel (60) formed in the planar surface the channel having a semi circular cross section and lying in the single plane, and means (64) for holding a piece of tubing within the support member. The channel having at least a semi-circular cross-section, but does not disclose the use of an adhesive being used. Applicant discloses in the specification, page 15, lines 10-16 that when the channel is of a cross-section equal to or less than a semi-circle, the tubing is preferably secured by means well known in the art, such as by adhesive. The patent to **Loeser** also discloses a non-kink tube device, wherein it is disclosed, col. 5, lines 2 and 3 that the tubing (142) is adapted to the ports (136, 138) by glue or other means well known in the art. It would have been obvious to one having ordinary skill in the art at the time

the invention was made to provide to the channels of **Miles**, an adhesive as suggested by both the Applicant's specification and **Loeser** wherein it is known to provide to a tube holding channel, an adhesive in order to assist in securing the tubing to the tubing support. In regard to the limitations recited in claims 32 and 34, **Miles** discloses a plurality of apertures at (80) and in the middle of the aperture that may be used for receiving straps or supporting devices or could be used for reduction of weight of the support device.

5. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Loeser** in view of **Stewart et al.**

Loeser does not disclose the structure to support the weight of the tubing apparatus as comprising a hole through the support member, being perpendicular to the two channels. The patent to **Stewart et al.** discloses a cable support device also including a rectangular block and two channels in which ends of respective cables are inserted. The support block can be supported against a surface by a third opening (38) which may receive a bolt (40) for securing the member to that surface, such as a structural tower member. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide to the device of **Loeser** a third hole, being perpendicular to the channels so that it may support its own weight and be secured to another device.

Response to Amendment

6. The amendment after final has been entered, but upon further review of the art it is believed that some claims previously indicated as allowable are not. For instance, claim 15 is rejected with **Miles** in view of Applicant's disclosure and **Loeser**. **Miles**, as has been discussed previously, discloses a support including a planar surface, and a channel formed in at least one of the planar surfaces, but does not disclose an adhesive. The Applicant's own specification discloses that using an adhesive is known in the art to secure a tube to a support having a semi circular cross section or less than semi-circular cross section. **Loeser** also discloses the use of adhesives to secure the tube to the support. Claim 35 is rejected in view of **McConnell** wherein it discloses a tube support including a planar surface having a curvilinear channel of substantial circular cross section for receiving a tubing. Claim 49 is rejected by **Stewart et al.**, wherein it discloses a solid block including a plurality of channels for receiving the ends of a tubing or tubings and a third opening for receiving a bolt that supports the block.

Allowable Subject Matter


7. Claims 27-30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. Claims 20-25 and 36 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patrick F. Brinson
Primary Examiner
Art Unit 3754

P. F. Brinson
June 3, 2007